



# United States Department of the Interior



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In Reply Refer To:  
4700 (NVB0200)

August 12, 2013

## **Decision**

Wild Horse and Burro Program

### **Gold Mountain HMA and Fish Lake Valley Wild Horse Drought Gather**

## **INTRODUCTION**

The Bureau of Land Management (BLM) Battle Mountain District (BMD), Tonopah Field Office (TFO), plans to conduct a gather and removal of approximately 180 wild horses from public lands within and adjacent to the Gold Mountain and Fish Lake Valley Herd Management Areas (HMA). This emergency gather is needed to remove wild horses of compromised body condition from drought stricken rangelands that have exceeded predetermined vegetation utilization and water availability thresholds. The removal will be accomplished through helicopter-drive trapping. The gather and removal is in accordance with the Battle Mountain District Drought Management Environmental Assessment DOI-BLM-NV-B000-2012-0005-EA (Drought EA), dated June 22, 2012, and the attached Gold Mountain and Fish Lake Valley HMA Wild Horse Drought Gather Plan. A Determination of NEPA Adequacy to the Drought EA has been completed for this decision (DOI-BLM-B020-2013-0058-DNA). The Drought EA and associated documents can be viewed at

[http://www.blm.gov/nv/st/en/fo/battle\\_mountain\\_field/blm\\_information/national\\_environmental.html](http://www.blm.gov/nv/st/en/fo/battle_mountain_field/blm_information/national_environmental.html)

According to the U.S. Drought Monitor, as of July 30, 2013, approximately 88% of the state of Nevada is experiencing severe or extreme drought. Drought conditions have caused reduced forage production and water availability for wild horses and wildlife within and areas adjacent to Gold Mountain and Fish Lake Valley HMAs. The TFO is implementing an analyzed Drought Response Action in the form of a drought wild horse gather, in response to exceeded Drought Response Triggers analyzed in the Drought EA within the aforementioned HMAs.

The Gold Mountain HMA is located on BLM TFO administered lands approximately 6 miles west of Scotty's Junction (U.S. Highway 95) in Nye and Esmeralda Counties, Nevada. The Gold Mountain HMA encompasses an area 17 miles wide and 13 miles long, varying in elevation from 7,565 feet on Mt. Tokop, to a low of 4,040 feet in Oriental Wash. Average annual precipitation at lower elevations is about 3 inches to approximately 12 inches at higher

elevations. The salt desert shrub vegetation type dominates the broad valleys on alluvial fans and in the lower foothills of the lower elevation areas. The hot desert vegetation is limited to the southern portion of the area and is located in valleys and low hills. The sagebrush vegetation type occurs in mountains and hills and the pinyon-juniper woodland vegetation type is present in mountainous areas. The appropriate management level (AML) for the Gold Mountain HMA is 78 burros, 0 wild horses. The current population estimate is 33 wild horses and 1 mule. (Gold Mountain HMA Map: Attachment 1, Appendix B - **Figure 05**)

The Fish Lake Valley HMA is located on the BLM TFO administered lands primarily west of the Highway 264 and south of Highway 6 in Esmeralda County, Nevada. The HMA encompasses an area 7 miles wide and 24 miles long. Elevations within the HMA range from a high of 8,960 feet in the White Mountains to a low of 4,880 feet west of Dyer. The area generally receives 3 inches of precipitation in the valley bottoms and up to 12 inches on the mountain slopes. The vegetative communities are dominated by the salt desert shrub vegetation type, followed by the alkaline meadows and bottoms vegetation type (which tend to occur in the broad valleys), and in the higher precipitation zone are the sagebrush and pinyon-juniper woodland vegetation types. Multiple perennial streams and water sources are known throughout the HMA, albeit several are on private land. The AML for the Fish Lake Valley HMA is 54 wild horses and the current population estimate is 229 wild horses. (Fish Lake Valley HMA Map: Attachment 1, Appendix B - **Figure 04**)

## **BACKGROUND**

In June of 2012, the BMD issued the Drought EA and associated Drought Detection and Monitoring Plan (DDMP), which addressed potential environmental impacts associated with livestock and wild horse and burro management actions carried out during drought within the BMD. The Drought EA established clearly defined drought indicators and Drought Response Triggers that when met or exceeded could prompt the implementation of one or a combination of management actions, or Drought Response Actions (DRA). The Drought EA analyzed a range of management alternatives, or DRAs, that would be implemented to mitigate the effects of drought and to address emergency situations.

Continuing drought conditions in spring/summer 2013 have resulted in insufficient amounts of forage and/or water to support the existing population of wild horses within these HMAs. Upon review of drought monitoring data, the BMD has decided that wild horse capture and removal is the appropriate DRA for immediate protection of wild horses, rangeland, and wildlife resources. Prior to the conclusion that wild horse removal from Gold Mountain and Fish Lake Valley HMAs was necessary; other DRAs were examined and deemed not feasible for these particular situations.

## **PUBLIC INVOLVEMENT**

Public outreach on numerous levels has occurred. Esmeralda County Commissioner (Nancy Boland), Timbisha Shoshone Tribe (Chairman George Gholson), affected livestock grazing permittees, and several members of the interested public have been notified of the drought gather. Multiple wild horse advocacy groups were contacted, and two organizations attended the drought gather tour in mid-July. The consensus from the groups was in support of the gathers. Additionally, public comment was received during review of the BMD Drought EA. The EA was

made available to the public for 30 day comment on April 13, 2012. The EA was also made available to the Nevada State Clearinghouse which made the notification letter and EA available for review by over 50 different local, county, state, and federal agencies from around the state. The EA was posted on the BMD website and NEPA Register. All comments were reviewed and considered in the preparation of the EA.

The TFO will make reasonable attempts to accommodate the public wishing to view the trapping of wild horses, viewing of the captured wild horses at the holding corrals, and observation of loading for transport throughout the gather period.

## **FISH LAKE VALLEY AND GOLD MOUNTAIN HMA CAPTURE AND REMOVAL**

In accordance with the attached Gold Mountain and Fish Lake Valley HMA Wild Horse Drought Gather Plan (Attachment 1), approximately 180 wild horses will be removed from the Gold Mountain (30 head) and Fish Lake Valley (150 head) HMAs cumulatively. Gather operations would begin on or around August 19, and may continue for approximately 8-10 days. Captured wild horses will be transported to the BLM's wild horse and burro facility in Ridgecrest, California (Fish Lake Valley) and Gunnison, UT (Gold Mountain). Gather operations will be conducted in accordance with the Wild Horse and Burro Programs Comprehensive Animal Welfare Policy Instruction Memorandum (IM).

## **DECISION**

It is my decision to implement the Gold Mountain and Fish Lake Valley HMA Wild Horse Drought Gather under Bureau of Land Management; Wild Free-Roaming Horse and Burro Management regulations 43 CFR § 4720.1, as described in the attached Gold Mountain and Fish Lake Valley HMA Wild Horse Drought Gather Plan (Attachment 1), and consistent with the BMD Drought EA.

## **RATIONALE**

Renewable resource staff for the TFO have been performing drought monitoring throughout the Fish Lake Valley and Gold Mountain HMAs, and associated grazing allotments. Monitoring has been conducted to verify and document drought related resource concerns beginning in 2012. Monitoring has continued as the drought persists. Monitoring methodologies and focus is consistent with those described in the BMD DDMP and analyzed in the Drought EA.

Vegetation within the HMAs is displaying various signs of drought stress. There is a significant lack of forage, and in some instances a lack of water, available for wildlife and wild horses. Prompt action is needed to ensure that rangeland resources, including those providing critical habitat for Bi-State Sage Grouse (Attachment 1, Appendix B - **Figure 04**), are not further impacted and degraded during the drought. Continued drought conditions and vegetation overutilization are resulting in measurable resource damage within the Gold Mountain and Fish Lake Valley HMAs. Continued overgrazing by wild horses will hamper or prevent the recovery of these areas when the drought ends.

The vegetative growth during the 2013 growing season was considerably reduced, with limited to no growth observed within some areas of the HMAs. Much of the vegetation is exhibiting reduced leaf growth and seed head development with induced senescence prevalent across the

allotments. Individual triggers are identified per HMA, and can be found in the Fish Lake Valley and Gold Mountain HMA Drought Monitoring Report (Attachment 1, Appendix B). No domestic livestock grazing has occurred within the allotments associated with Fish Lake Valley HMA or allotment pastures associated with Gold Mountain HMA for over three years. Drought Indicators as identified in the Battle Mountain District Drought EA have been verified (Attachment 1 – **Figures 3, 4**, Appendix B - **Figures 01, 02**).

In accordance with 43 CFR § 4720.1 and upon examination of current information, it has been determined that emergency conditions due to drought exist within Gold Mountain and Fish Lake Valley HMAs. Wild horse body condition is steadily declining within the Gold Mountain and Fish Lake Valley HMAs due to inadequate forage and water availability, thus animals should be removed as soon as practical. Immediate action is necessary to protect wild horse health and reduce further rangeland degradation during drought.

Based on current range conditions measured from monitoring data collected from April through July of 2013 showing that the triggers for implementing a DRA, in the form of gather and removal of wild horses, have been exceeded. The TFO is issuing this Decision effective upon issuance in accordance with 43 CFR § 4770.3.

## **AUTHORITY**

The authority for this decision is contained in Section 1333(a) of the Wild and Free Roaming Horses and Burros Act (WFRHBA), Section 302 (a) and (b) of the Federal Land Policy and Management Act (FLPMA) of 1976, the Public Rangelands Improvement Act (PRIA) of 1978 (Pub. L. 95-514, Sec. 4) and at 43 CFR § 4700.

### **43 CFR § 4700.0-6 Policy.**

- (a) Wild horses and burros shall be managed as self-sustaining populations of healthy animals in balance with other uses and the productive capacity of their habitat;
- (b) Wild horses and burros shall be considered comparably with other resource values in the formulation of land use plans;
- (c) Management activities affecting wild horses and burros shall be undertaken with the goal of maintaining free-roaming behavior;
- (d) In administering these regulations, the authorized officer shall consult with Federal and State wildlife agencies and all other affected interests, to involve them in planning for and management of wild horses and burros on the public lands.

### **43 CFR § 4710.4 Constraints on Management**

Management of wild horses and burros shall be undertaken with the objective of limiting the animals' distribution to herd areas. Management shall be at the minimum level necessary to attain the objectives identified in approved land use plans and herd management area plans.

### **43 CFR § 4720.1 Removal of excess animals from public lands**

Upon examination of current information and a determination by the authorized officer that an excess of wild horses or burros exists, the authorized officer shall remove the excess animals immediately in the following order.

- (a) Old, sick, or lame animals shall be destroyed in accordance with subpart 4730 of this title;
- (b) Additional excess animals for which an adoption demand by qualified individuals exists shall

be humanely captured and made available for private maintenance in accordance with 4750 of this title; and

(c) Remaining excess animals for which no adoption demand by qualified individuals exists shall be destroyed in accordance with subpart 4730 of this title.

#### **43 CFR § 4740.1 Use of motor vehicles or aircraft**

(a) Motor vehicles and aircraft may be used by the authorized officer in all phases of the administration of the Act, except that no motor vehicle or aircraft, other than helicopters, shall be used for the purpose of herding or chasing wild horses and burros for capture or destruction. All such use shall be conducted in a humane manner.

(b) Before using helicopters or motor vehicles in the management of wild horses and burros, the authorized officer shall conduct a public hearing in the area where such use is to be made.

#### **43 CFR § 4770.3 Administrative Remedies**

(a) Any person who is adversely affected by a decision of the authorized officer in the administration of these regulations may file an appeal. Appeals and petitions for stay of a decision of the authorized officer must be filed within 30 days of receipt of the decision in accordance with 43 CFR, part 4.

(c) Notwithstanding the provisions of paragraph (a) of §4.21 of this title, the authorized officer may provide that decisions to remove wild horses or burros from public or private lands in situations where removal is required by applicable law or is necessary to preserve or maintain a thriving natural ecological balance and multiple use relationship shall be effective upon issuance or on a date established in the decision.

**43 USC Sec. 1901(4):** Continue the policy of protecting wild free-roaming horses and burros from capture, branding, harassment, or death, while at the same time facilitating the removal and disposal of excess wild free-roaming horses and burros which pose a threat to themselves and their habitat and to other rangeland values.

**42 USC Sec. 1732(b):** In managing the public lands the Secretary shall, by regulation or otherwise, take any action necessary to prevent unnecessary or undue degradation of the lands.

### **APPEAL PROVISIONS**

Within 30 days of receipt of this wild horse decision, you have the right to appeal to the Interior Board of Land Appeals, Office of the Secretary, in accordance with regulations at 43 CFR Part 4. If an appeal is taken, you must follow the procedures outlined in the enclosed form 1842-1, "Information on Taking Appeals to the Interior Board of Land Appeals." Please also provide this office with a copy of your Statement of Reasons. An appeal should be in writing and specify the reasons, clearly and concisely, as to why you think the decision is in error.

In addition, within 30 days of receipt of this decision you have a right to file a petition for a stay (suspension) of the decision together with your appeal in accordance with the regulations at 43 CFR § 4.21. The petition must be served upon the same parties identified in items 2, 3, and 4 of the enclosed form 1842-1 titled "Information on Taking Appeals to the Interior Board of Land Appeals." The appellant has the burden of proof to demonstrate that a stay should be granted.

A petition for a stay of the decision pending appeal shall show sufficient justification based on

the following standards:

- 1) The relative harm to the parties if the stay is granted or denied;
- 2) The likelihood of the appellant's success on the merits;
- 3) The likelihood of immediate and irreparable harm if the stay is not granted; and
- 4) Whether the public interest favors granting the stay.

At the conclusion of any document that a party must serve, the party or its representative must sign a written statement certifying that service has been or will be made in accordance with the applicable rules and specifying the date and manner of such service (43 CFR § 4.401 (c) (2)).

## **APPROVAL**

The Fish Lake Valley and Gold Mountain Wild Horse Drought Gather is approved to begin on or around August 19, 2013. This decision is effective upon issuance in accordance with 43 CFR § 4720.1 because removal of wild burros from public lands necessary to protect animal health and prevent further damage to rangelands. This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with 43 CFR part 4 (see attachment).

<u>/s/ Timothy J. Coward</u>	<u>8/12/13</u>
Timothy J. Coward	Date
Acting Field Manager,	

## Attachments

### Attachment 1

Battle Mountain District  
Tonopah Field Office  
1553 South Main St.  
PO Box 911  
Tonopah, NV 89049

July 2013

## Gold Mountain and Fish Lake Valley Herd Management Areas

Wild Horse Drought Gather Plan

Esmeralda County Nevada



***Gold Mountain and Fish Lake Valley HMAs  
Wild Horse Drought Gather Plan***

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***Gold Mountain and Fish Lake Valley HMA  
Wild Horse Drought Gather Plan  
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**Gold Mountain and Fish Lake Valley HMA  
Wild Horse Drought Gather Plan**

**1.0 Introduction**

The Bureau of Land Management (BLM) Tonopah Field Office (TFO) is proposing to conduct a drought related wild horse gather to remove wild horses from the Gold Mountain and Fish Lake Valley Herd Management Areas (HMAs). The proposal includes the capture of approximately 30 wild horses from within and associated with the Gold Mountain HMA and 150 wild horses from within and associated with the Fish Lake Valley HMA. The gather area includes the areas within and associated with the Gold Mountain and Fish Lake Valley HMAs. Magruder Mountain is the only grazing allotment associated with the Gold Mountain HMA. The Fish Lake Valley HMA is comprised of the Fish Lake Valley, Red Springs, and Monte Cristo grazing allotments. The proposed drought gathers would occur on or around August 15, 2013. The drought gathers would be conducted in accordance with this Gather Plan and Standard Operating Procedures (SOPs) located in Appendix A. Refer to figures 1 and 2 which display the proposed gather area in relation to the involved HMAs.

**2.0 Background**

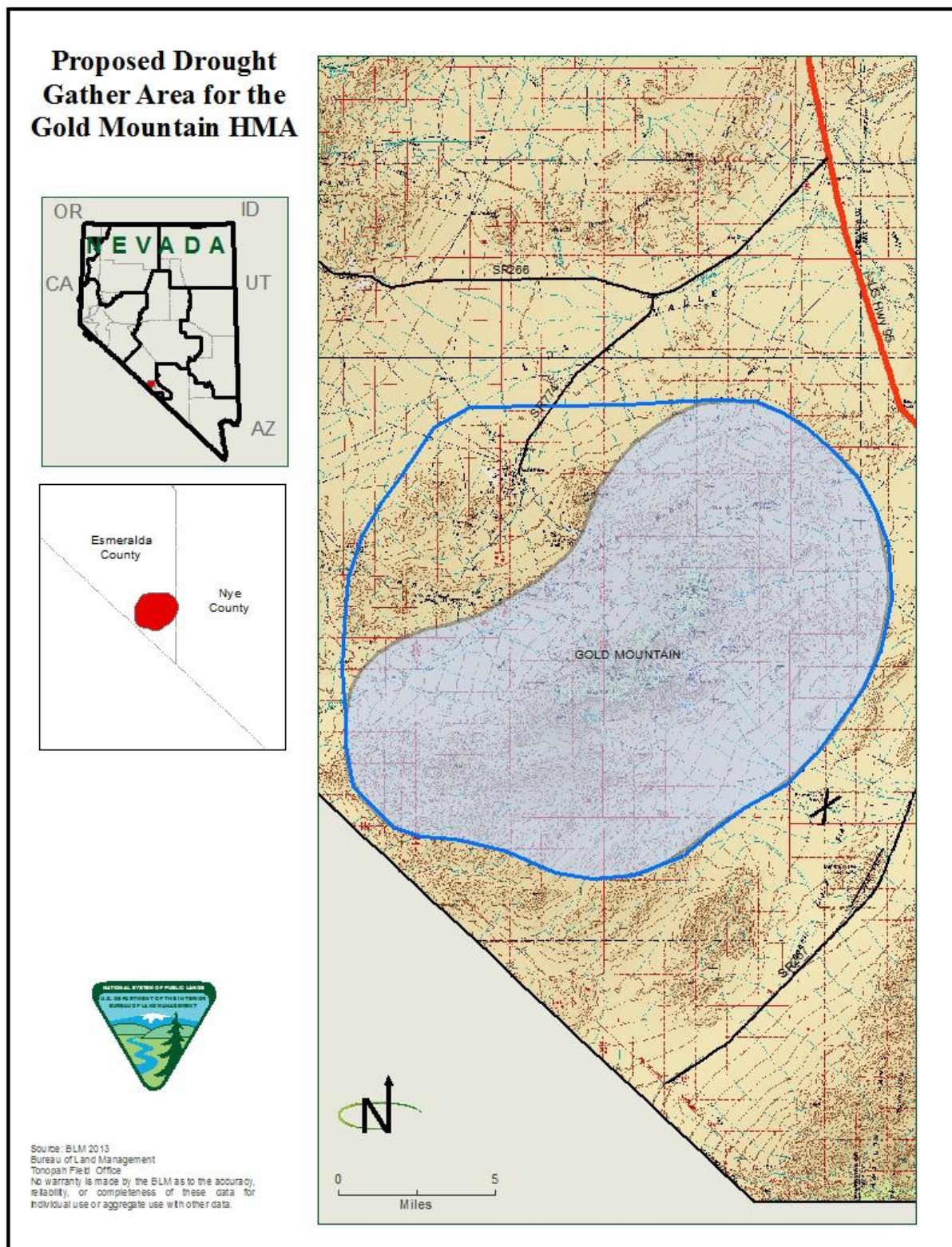
The proposed gather area for the Gold Mountain HMA would include the area within the HMA boundary and those areas immediately adjacent to the HMA where wild horses may be encountered. The gather area associated with the Fish Lake Valley HMA includes the area inside the HMA boundary and BLM TFO administered lands outside of the HMA boundary where wild horses from the Fish Lake Valley HMA have been recently documented.

The Fish Lake Valley HMA is located on the BLM TFO administered lands primarily west of the Highway 264 and south of Highway 6 in Esmeralda County, Nevada. The HMA encompasses an area 7 miles wide and 24 miles long. Elevations within the HMA range from a high of 8,960 feet in the White Mountains to a low of 4,880 feet west of Dyer. The area generally receives 3 inches of precipitation in the valley bottoms and up to 12 inches on the mountain slopes. The vegetative communities are dominated by the salt desert shrub vegetation type, followed by the alkaline meadows and bottoms vegetation type (which tend to occur in the broad valleys), and in the higher precipitation zone are the sagebrush and pinyon-juniper woodland vegetation types. Important species include Indian ricegrass, bottlebrush squirreltail, galleta grass, winterfat/white sage, and fourwing saltbrush. Multiple perennial streams and water sources are known throughout the HMA, albeit several are on private land. The AML for the Fish Lake Valley HMA is 54 wild horses and the current population estimate is 229 wild horses.

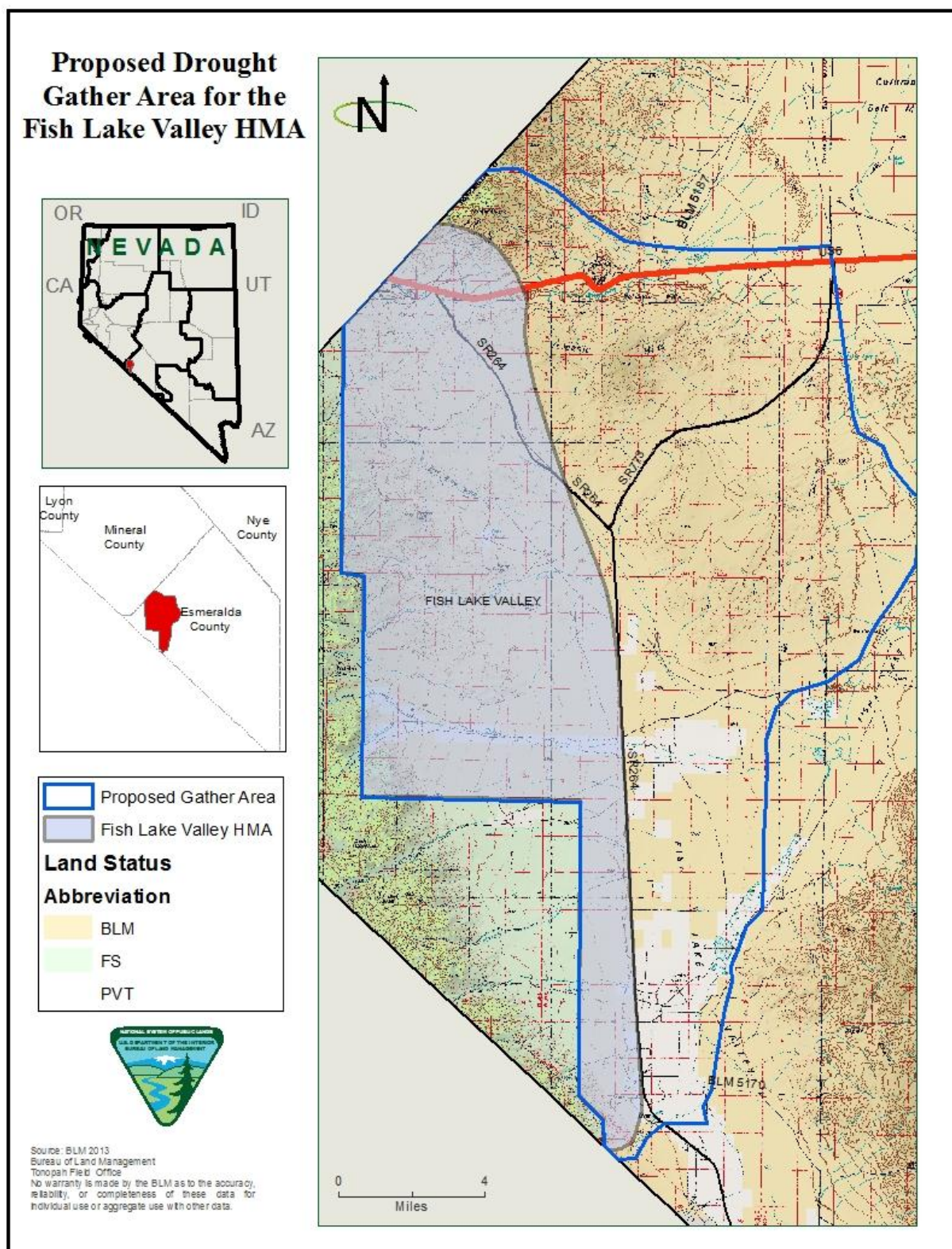
The Gold Mountain HMA is located approximately 6 miles west of Scotty's Junction (U.S. Highway 95) in Nye and Esmeralda Counties, Nevada. The Gold Mountain HMA encompasses an area 17 miles wide and 13 miles long, varying in elevation from 7,565 feet on Mt. Tokop, to a low of 4,040 feet in Oriental Wash. Average annual precipitation at lower elevations is about 3 inches to approximately 12 inches at higher elevations. The salt desert shrub vegetation type dominates the broad valleys on alluvial fans and in the lower foothills of the lower elevation areas. The hot desert vegetation is limited to the southern portion of the area and is located in valleys and low hills. The sagebrush vegetation type occurs in mountains and hills and the pinyon-juniper woodland vegetation type is present in

**Gold Mountain and Fish Lake Valley HMAs**  
**Wild Horse Drought Gather Plan**

**Figure 1.** The drought gather area of associated with the Gold Mountain HMA.



**Figure 2.** The drought gather area associated with the Fish Lake Valley HMA.



## ***Gold Mountain and Fish Lake Valley HMAs***

### ***Wild Horse Drought Gather Plan***

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mountainous areas. Important species include Indian ricegrass, galleta grass, alkali sacaton, bottlebrush squirreltail, and winterfat/white sage. Only one available water source exists in the entire area. The Appropriate Management Level (AML) for the Gold Mountain HMA is 78 burros, 0 wild horses. The current population estimate is 33 wild horses and 1 mule.

The Gold Mountain HMA was gathered due to drought-related emergency conditions in 1995, 1996, and 1997 during which all animals were thought to have been removed.

### **3.0 Drought Wild Horse Gather Rationale**

In June of 2012, the Battle Mountain District issued the Battle Mountain District (BMD) Drought Management Environmental Assessment (EA; DOI-BLM-NV-B000-2012-0005-EA), further referred to as the Drought EA, and the BMD Drought Detection and Monitoring Plan (DDMP). The Drought EA addressed potential environmental consequences associated with livestock and wild horse and burro management actions carried out during drought.

The Drought EA and associated DDMP established clearly defined drought indicators and Drought Response Triggers (Triggers) that when met or exceeded could prompt the implementation of one or a combination of management actions, or Drought Response Actions (DRA). The Drought EA analyzed a range of management alternatives, or DRAs, that would be implemented to mitigate the effects of drought and to address emergency situations.

Triggers were placed into two categories: water and forage. Water would be classified as “available” or “unavailable” with clear definitions of each. The forage category was further broken down into triggers associated with utilization and stubble height, livestock/wild horse and burro distribution, and plant production and/or drought stress.

The Drought EA analyzed wild horse removal as a DRA. Based on a review of drought monitoring data and all other available information, the BMD has decided that removal is necessary for immediate protection of wild horses, rangeland, and wildlife resources. Drought conditions have resulted in insufficient amounts of forage and/or water to support the existing population of wild horses within these HMAs. Prior to the conclusion that wild horse removal from Gold Mountain and Fish Lake Valley HMAs was necessary; other DRAs were examined and deemed not feasible for these particular situations.

This assessment is based on factors including, but not limited to the following rationale:

### **3.1 Climate**

As described in the Drought EA, the U.S. Drought Monitor (<http://droughtmonitor.unl.edu/>) was consulted to determine if weather conditions indicate drought and to identify affected areas. The Vegetation Drought Response Index (VegDRI) (<http://vegdiri.unl.edu/>) was utilized to determine areas where vegetation conditions indicated drought afflicted areas and drought stress.

As of the most recent update (July 9, 2013) the U.S. Drought monitor indicates that the proposed drought gather areas are in a “severe” drought (Figure 3). According to the VegDRI, last updated on July 1, 2013, both areas are a mixture of “severe” and “extreme” drought (Figure 4).

Multiple field visits have confirmed drought conditions in the gather areas (Appendix B). Water sources in both HMAs have been continuously monitored for availability, quality and quantity, and use. Site

visits were conducted to validate areas of severe and extreme drought based on the VegDRI.

### **3.2 Drought Response Triggers and Monitoring Results**

A summary of monitoring results can be found in Appendix B.

#### **3.2.1 Water**

Water availability is not considered a major limiting factor in the Fish Lake Valley HMA. A number of perennial streams and creeks flow through the HMA coming out of the White Mountain range to the west. There are also water sources throughout parts of the HMA on private property that currently allows access for wild horses. The Grefco Mine, just south of Highway 6 in the north end of the HMA, provides a reliable, year-round water source that currently permits unrestricted access of wild horses to water.

Only one known water source, Willow Spring, exists in the Gold Mountain HMA. The TFO staff has been monitoring available water quantity and use of this spring since early 2012 through bi-weekly site visits and a motion triggered game camera. Pictures show that the spring is a critical source of water for wild horses, mule deer, chukar, and a large component of non-game birds and mammals. Before monsoon-like storms in August of 2012, Willow Spring nearly dried up completely. These photos have also been used to document wild horse body condition. In the last couple of months, body condition of the wild horses using Willow Spring has begun to noticeably decrease.

#### **3.2.2 Utilization**

Numerous site visits indicated a significant lack or even complete loss of key forage species in Fish Lake Valley HMA. This lack of key species in the area has resulted in wild horses utilizing shrub species, particularly spiny menodora (*Menodora spinescens*). Further, no utilization measurements were collected due to the complete lack of key species in some areas of the Fish Lake Valley HMA. The Gold Mountain HMA is comprised of Salt Desert Shrub and Pinyon-Juniper Woodlands. In the Drought EA, utilization levels for Salt Desert Shrub were established at 25% use of key species, and 30% use of key species in P-J Woodlands. Utilization of key species in the Gold Mountain HMA averages approximately 40% utilization. Utilization levels near Willow Spring are upwards of 60%, even where key grass species are sheltered by shrubs.

#### **3.2.3 Plant Production and/or Drought Stress**

Drought triggers set forth in the Drought EA and that apply to both the Fish Lake Valley and Gold Mountain HMA are: 1) drought induced senescence or reduced production of key upland species which results in an insufficient quantity and of forage for wildlife, wild horses, and livestock, and 2) noticeable signs of drought stress which impede the ability of key species to complete their life cycle (e.g. drought induced senescence, reduced seed head development, etc.)

**Figure 3.** U.S. Drought Monitor for Nevada on July 9, 2012.

# U.S. Drought Monitor

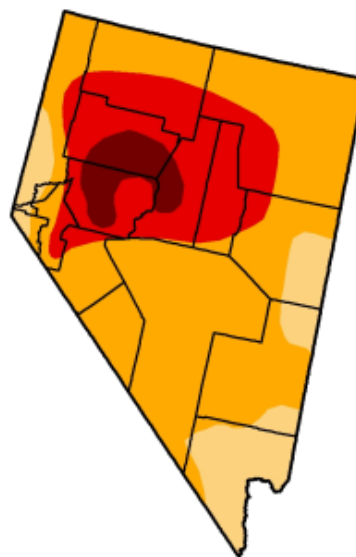
## Nevada

**July 9, 2013**  
 Valid 7 a.m. EST

	Drought Conditions (Percent Area)					
	None	D0-D4	D1-D4	D2-D4	D3-D4	D4
Current	0.00	100.00	100.00	86.38	28.37	5.37
Last Week (07/02/2013 map)	0.00	100.00	99.61	86.38	28.37	5.37
3 Months Ago (04/09/2013 map)	0.00	100.00	88.87	54.55	12.22	0.00
Start of Calendar Year (01/01/2013 map)	0.00	100.00	94.13	62.22	16.46	0.00
Start of Water Year (09/25/2012 map)	0.00	100.00	99.24	56.05	26.78	0.00
One Year Ago (07/03/2012 map)	0.00	100.00	97.54	78.81	11.98	0.00

Intensity:

 D0 Abnormally Dry	 D3 Drought - Extreme
 D1 Drought - Moderate	 D4 Drought - Exceptional
 D2 Drought - Severe	



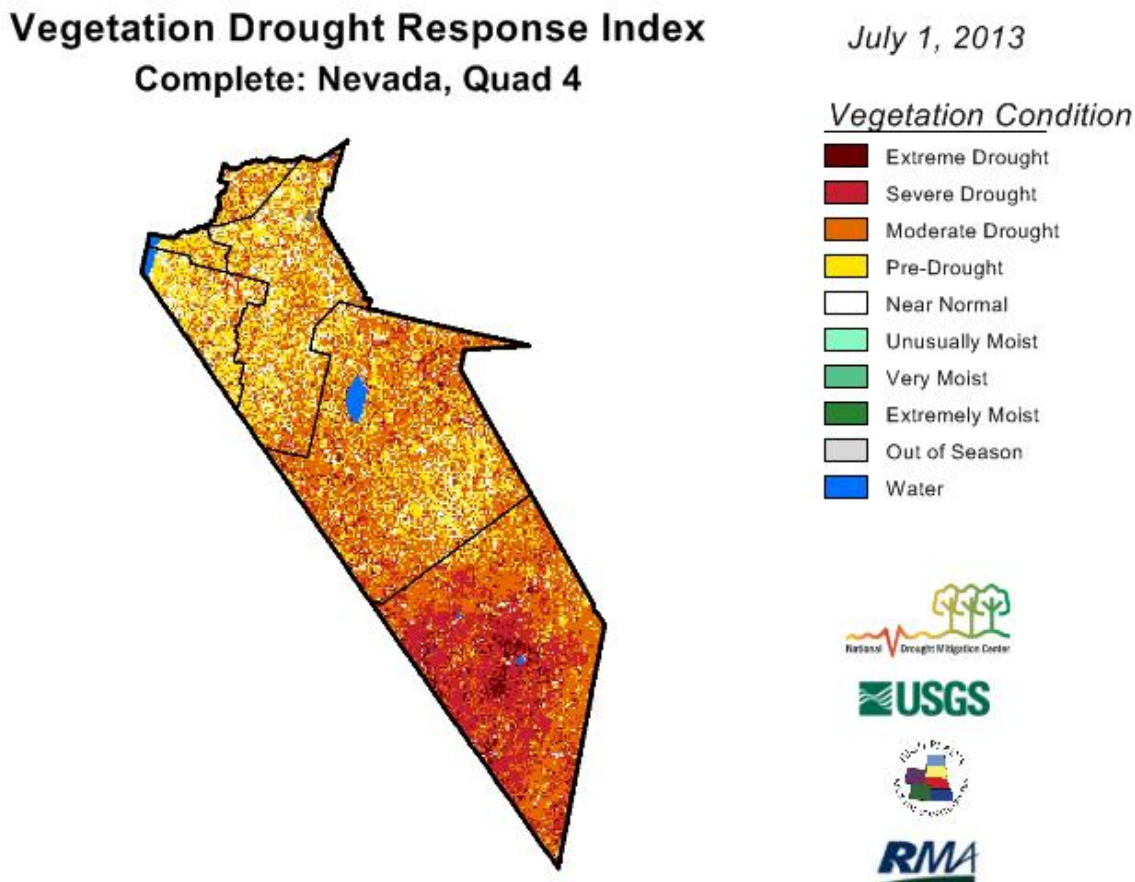
*The Drought Monitor focuses on broad-scale conditions.  
 Local conditions may vary. See accompanying text summary  
 for forecast statements.*

<http://droughtmonitor.unl.edu>



**Released Thursday, July 11, 2013**  
**National Drought Mitigation Center,**

**Figure 4.** VegDRI map for western Nevada counties, including Esmeralda County.



### 3.3 Animal Health

Wild horses are a long-lived species with documented survival rates exceeding 92% for all age classes and do not have the ability to self-regulate their population size. Wild horses in general are very resilient and adaptable animals with a metabolism that has evolved to allow them to survive and thrive in poor quality habitat (compared to their domestic counterparts). Wild horses typically do not begin to show signs of body condition decline until the habitat components are severely deficient. Once the decline begins, their health deteriorates rapidly.

Repeated site visits to the Fish Lake Valley HMA have enabled TFO staff to document a range and trend of BCS of the wild horses in the area. Some bands of wild horses exhibit Henneke BCS scores of 3.5 – 4.0. However, the majority of the wild horses are in a BCS category of 2.5 – 3.5. With current drought conditions in the HMA, body conditions are decreasing still, but at a faster pace.

Wild horse body condition has been monitored closely through the use of game cameras on Willow Spring the Gold Mountain HMA. Due to the inherent harsh environment, the wild horses in this area tend to be thinner than wild horses in other parts of the BMD. However, in the last few weeks, TFO staff has noticed BCS declining; and at an alarming rate in some animals.

If drought conditions persist or worsen and no action is taken to remove wild horses from the Fish Lake

## ***Gold Mountain and Fish Lake Valley HMAs***

### ***Wild Horse Drought Gather Plan***

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Valley and Gold Mountain HMAs, high rates of mortality in all age classes can be expected. The lack, or even delay of a gather would result in further degradation of rangeland resources.

#### **3.4 Status of Livestock**

Currently, no livestock graze in the Fish Lake Valley HMA. Permittees in the area have not grazed Fish Lake Valley for several years due to the lack of forage. Following a drought gather of the area, livestock would not be permitted to graze in the HMA until a full growing season following the cessation of the drought to allow for recovery.

The Gold Mountain HMA is primarily in a forage reserve portion of the Magruder Allotment. The terms and conditions of the forage reserve pasture states that: “*The marginal potential grazing pasture – south portion of the Magruder Mountain is available only during periods that are above average precipitation as determined by the BLM.*” The southern portion of the Magruder Mountain Allotment has not been grazed since the onset of the drought. Grazing will not be authorized in the HMA until a full growing season following the drought. The U.S Drought Monitor and VegDRI would be consulted to determine the end of the drought.

#### **3.5 Bi-State Sage Grouse**

The Fish Lake Valley HMA contains habitat for the Distinct Population Segment of Bi-State Sage-grouse. Two active leks are known to exist within the HMA. The Bi-State population of Sage-grouse is currently a candidate species for listing under the Threatened and Endangered Species Act. Continued use of the area during drought condition could lead to further degradation of Bi-State Sage-grouse habitat. Deterioration of this species’ habitat would further warrant its listing.

#### **4.0 Drought Gather Plan**

The proposed gather would take place on or about August 15, 2013. Gathers would be completed in accordance with this Drought Gather Plan and Standard Operating Procedures (SOPs; Appendix A). The BLM would be responsible for contractor compliance to national contract specifications including SOPs.

The primary gather technique would be the helicopter-drive trapping method. The use of roping from horseback could also be used when necessary. Multiple gather sites (traps) would be used to gather wild horses both from within and outside the HMAs. The BLM would make every effort to place gather sites in previously disturbed areas, but if a new site needs to be used, a cultural resource inventory would be completed prior to using the new gather site. No gather sites would be set up near greater sage-grouse leks, known populations of Sensitive Species; or in riparian areas, cultural resource sites, Wilderness Study Areas (WSAs) or congressionally designated Wilderness Areas. All gather sites, holding facilities, and camping areas on public lands would be recorded with Global Positioning System equipment, given to the Battle Mountain District Invasive, Non-native Weed Coordinators, and then assigned for monitoring during the next several years following gather for invasive, non-native weeds. All gather and handling activities (including gather site selections) would be conducted in accordance with SOPs in Appendix A.

Some animals gathered from inside the Fish Lake Valley HMA boundary could be subject to selective removal to the extent possible, while ensuring that the post-gather populations or individuals are not threatened by continued drought conditions. The primary goal for the gathers is to remove wild horses

## ***Gold Mountain and Fish Lake Valley HMAs Wild Horse Drought Gather Plan***

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in poor body condition and to protect rangeland and wildlife resources during drought conditions. It is anticipated that any animals selected for release back to the Fish Lake Valley HMA would be the individuals in the best body condition. Weak, unhealthy, and unthrifty animals would not be released. A helicopter inventory flight may be conducted following the gather to collect information about numbers, distribution and health of remaining wild horses within the HMAs.

An Animal and Plant Inspection Service (APHIS) or other veterinarian may be on-site during the gather, as needed, to examine animals and make recommendations to the BLM for care and treatment of wild horses.

Any old, sick or lame horses unable to maintain an acceptable body condition (greater than or equal to a Henneke body condition score (BCS) of 3 or with serious physical defects such as club feet, severe limb deformities, or sway back would be humanely euthanized as an act of mercy. Decisions to humanely euthanize animals in field situations would be made in conformance with BLM policy (Washington Office Instruction Memorandum 2009-041). Refer to:

[http://www.blm.gov/wo/st/en/info/regulations/Instruction\\_Memos\\_and\\_Bulletins/national\\_instruction/2009/IM\\_2009-041.html](http://www.blm.gov/wo/st/en/info/regulations/Instruction_Memos_and_Bulletins/national_instruction/2009/IM_2009-041.html)

### ***Temporary Holding Facilities During Gathers***

Wild horses gathered would be transported from the gather corrals (trap sites) to a temporary holding corral within or nearby the HMAs primarily in goose-neck trailers however straight deck semi-trailers may be used. At the temporary holding corrals wild horses would be aged and sorted into different pens based on age and sex. The horses would be fed quality hay and water while in the holding facility. Mares and their un-weaned foals (if encountered) would be kept in pens together.

At the temporary holding facility, recommendations to the BLM regarding care, treatment, and if necessary, euthanasia of the recently captured wild horses would be provided by a veterinarian. Any animals affected by a chronic or incurable disease, injury, lameness or serious physical defect (such as severe tooth loss or wear, club foot, and other severe congenital abnormalities) would be humanely euthanized using methods acceptable to the American Veterinary Medical Association (AVMA).

### ***Transport, Short Term Holding, and Adoption (or Sale) Preparation***

Up to 180 total wild horses would be removed. Wild horses identified for removal would be transported from the capture/temporary holding corrals to the designated BLM short-term holding corral facility(s) in straight deck semi-trailers or goose-neck stock trailers.

Vehicles would be inspected by the BLM Contracting Officer's Representative (COR) or Project Inspector (PI) prior to use to ensure wild horse safety. Wild horses would be segregated by age and sex and loaded into separate compartments. A small number of mares may be shipped with foals. Transportation of recently captured wild horses is limited to a maximum of 8 hours.

Upon arrival at the short term holding facility, recently captured wild horses would be off-loaded by compartment and placed in holding pens where they are fed quality hay and given water. Most wild horses begin to eat and drink immediately and adjust rapidly to their new situation. At the short-term holding facility, a veterinarian examines each load of horses and provides recommendations to the BLM

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regarding care, treatment, and if necessary, euthanasia of the recently captured wild horses. Wild horses in very thin condition or animals with injuries would be sorted and placed in hospital pens, fed separately and/or treated for their injuries as indicated. Recently captured wild horses, generally mares, in very thin condition may have difficulty transitioning to feed. Some of these animals may be in such poor condition that it is unlikely they would have survived if left on the range. Every effort would be taken to help the mare make a quiet, low stress transition to captivity and domestic feed to minimize the risk of death.

At short-term corral facilities, once the horses have adjusted to their new environment, they are prepared for adoption or sale. Preparation involves freeze-marking the animals with a unique identification number, drawing a blood sample to test for equine infectious anemia (Coggins test), vaccination against common equine diseases, castration, and de-worming.

At short-term corral facilities, a minimum of 700 square feet is provided per animal. Mortality at short-term holding facilities averages approximately 5% per year (GAO-09-77, Page 51), and includes animals euthanized due to a pre-existing condition; animals in extremely poor condition; animals that are injured and would not recover; animals which are unable to transition to feed; and animals which are seriously injured or accidentally die during sorting, handling, or preparation.

The long-term grassland pastures are designed to provide excess wild horses with humane, and in some cases life-long care in a natural setting off the public rangelands. There, wild horses are maintained in grassland pastures large enough to allow free-roaming behavior and with the forage, water, and shelter necessary to sustain them in good condition. Establishment of LTPs was subject to a separate NEPA and decision-making process. Located in mid or tall grass prairie regions of the United States, these LTP are highly productive grasslands compared to more arid western rangelands. These pastures comprise about 256,000 acres (an average of about 10-11 acres per animal). Of the animals currently located in LTP, less than one percent is age 0-4 years, 49 percent are age 5-10 years, and about 51 percent are age 11+ years.

Mares and castrated stallions (geldings) are segregated into separate pastures except one facility where geldings and mares coexist. No reproduction occurs in the long-term grassland pastures, but some foals are born to mares that were pregnant when they were removed from the range and placed onto the LTP. These foals are gathered and weaned when they reach about 8-10 months of age and are then shipped to short-term facilities where they are made available for adoption. Handling of wild horses at the LTPs is minimized to the extent possible although regular on-the-ground observation and weekly counts of the wild horses to ascertain their numbers, well-being, and safety are conducted. A very small percentage of the animals may be humanely euthanized if they are in very thin condition and are not expected to improve to a Henneke BCS of 3 or greater due to age or other factors. Natural mortality of wild horses in LTP averages approximately 8% per year, but can be higher or lower depending on the average age of the horses pastured there (GAO-09-77, Page 52). The savings to the American taxpayer which results from contracting for LTP averages about \$4.45 per horse per day as compared with maintaining the animals in short-term holding facilities.

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*Euthanasia and Sale without Limitation*

While humane euthanasia and sale without limitation of healthy horses for which there is no adoption demand is required under the Wild Free Roaming Horses and Burros Act (WFRHBA), Congress prohibited the use of appropriated funds for this purpose between 1987 and 2004 and again in 2011 and is presently in effect. It is unknown if a similar limitation will be placed on the use of Fiscal Year 2014 appropriated funds.

The Authorized Office (or designee) will make decisions regarding euthanasia, in accordance with BLM policy as expressed in Washington Office Instructional Memorandum No. 2009-041. A veterinarian may be called to make a diagnosis and final determination. Current BLM SOP is to have a Veterinarian from APHIS on site throughout the gather to observe animal health and condition and provide input to BLM staff regarding the potential need to euthanize wild horses on gathers. Euthanasia shall be done by the most humane method available. Authority for humane euthanasia of wild horses or burros is provided by the Wild Free-Roaming Horses and Burros Act of 1971, Section 3(b)(2)(A), 43 CFR 4730.1, BLM Manual 4730 - Euthanasia of Wild horses and Burros and Disposal of Remains. The following are excerpted from IM 2009-41:

*A Bureau of Land Management (BLM) authorized officer may authorize the euthanasia of a wild horse or Burro in field situations (includes free-roaming horses and burros encountered during gather operations) as well as short- and long-term wild horse and Burro holding facilities with any of the following conditions:*

- (1) Displays a hopeless prognosis for life;*
- (2) suffers from a chronic or incurable disease, injury or serious physical defect; (includes severe tooth loss or wear, severe club feet, and other severe acquired or congenital abnormalities)*
- (3) would require continuous treatment for the relief of pain and suffering in a domestic setting;*
- (4) is incapable of maintaining a Henneke body condition score greater than two, in its present environment;*
- (5) has an acute or chronic injury, physical defect or lameness that would not allow the animal to live and interact with other horses or burros , keep up with its peers or exhibit behaviors which may be considered essential for an acceptable quality of life constantly or for the foreseeable future;*
- (6) suffers an acute or chronic infectious disease where State or Federal animal health officials order the humane destruction of the animal as a disease control measure.*

*There are three circumstances where the authority for euthanasia would be applied in a field situation:*

*(A) If an animal suffers from a condition as described in 1-6 above that causes acute pain or suffering and immediate euthanasia would be an act of mercy, the authorized officer has the authority and the obligation to promptly euthanize the animal. If the animal is euthanized during a gather operation, the authorized officer will describe the animal's condition and report the action using the gather report in the comment section that summarizes gather operations (See attachment 1). If the euthanasia is performed during routine monitoring, the Field Manager will be notified of the incident as soon as*

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*practical after returning from the field.*

*(B) Older wild horses and burros encountered during gather operations should be released if, in the opinion of the authorized officer, the criteria described in 1-6 above for euthanasia do not apply, but the animals would not tolerate the stress of transportation, adoption preparation, or holding and may survive if returned to the range. This may include older animals with significant tooth wear or tooth loss that have a Henneke body condition score greater than two. However, if the authorized officer has inspected the animal's teeth and feels the animal's quality of life will suffer and include health problems due to dental abnormalities, significant tooth wear or tooth loss; the animal should be euthanized as an act of mercy.*

*(C) If an animal suffers from any of the conditions listed in 1-6 above, but is not in acute pain, the authorized officer has the authority to euthanize the animal in a humane manner. The authorized officer will prepare a written statement documenting the action taken, and notify the Field Manager and State Office WH&B (WH&B) Program Lead. If available, consultation and advice from a veterinarian is recommended, especially where significant numbers of wild horses or burros are involved.*

**5.0 Special Stipulations**

- 1) Private landowners or the proper administering agency(s) would be contacted and authorization obtained prior to setting up gather corrals on any lands which are not administered by BLM. Wherever possible, gather corrals would be constructed in such a manner as to not block vehicular access on existing roads.
- 2) Gather corrals would be constructed so that no riparian vegetation is contained within them. No vehicles would be operated on riparian vegetation or on saturated soils associated with riparian/wetland areas.
- 3) The helicopter would avoid eagles and other raptors, and would not be flown repeatedly over any identified active raptor nests. No unnecessary flying would occur over big game on their winter ranges or active fawning/calving grounds during the period of use.
- 4) Standard operating procedures in the site establishment and construction of gather corrals will avoid adverse impacts from gather corrals, construction, or operation to wildlife species, including threatened, endangered, or sensitive species.
- 5) Archeological clearance by a BLM archaeologist or District Archeology Technician of gather corrals, holding corrals, and areas of potential effects would occur prior to construction of gather corrals and holding corrals. If cultural resources were encountered, those locations would not be utilized unless they could be modified to avoid impacts. Due to the inherent nature of wild horse gathers, gather corrals and holding corrals would be identified just prior to use in the field. As a result, Cultural Resource staff would coordinate with WH&B personnel to inventory proposed locations as they are identified, and complete required documentation.
- 6) Wilderness Study Areas: When gathering wild horses from within Wilderness Study Areas (WSAs), applicable policy will be strictly adhered to. Only approved roads will be traveled on. A Wilderness Specialist or designee would be present to ensure that only inventoried ways or cherry stemmed

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roads are traveled on by vehicles within the WSA.

**7) Wildlife stipulations**

The following stipulations would be applied as appropriate.

**a. Sage Grouse**

- i. Avoid active leks (strutting grounds) by 2 miles. March 1- May 15
  - ii. Avoid nesting and brood rearing areas (especially riparian areas where broods concentrate beginning usually in June) by 2 miles. April 1 – August 15
  - iii. Avoid sage grouse wintering areas by 2 miles while occupied. Most known wintering grounds in the Shoshone-Eureka Resource Area occur at high elevations and are not likely to be affected. Dates vary with severity of winter
  - iv. Minimize and mitigate disturbance to the vegetation in all known sage grouse habitat.
- b. Ferruginous Hawk:** Avoid active nests by 2 miles. March 15- July 1.

**6.0 Continued Monitoring**

The BLM would continue to conduct the necessary monitoring to periodically evaluate the effects of drought in the Gold Mountain and Fish Lake Valley HMAs. While drought conditions persist, BMD staff will continue to collect climate, water, forage, animal distribution, plant production and drought stress and the body condition of wild horses and burros as defined by the Drought EA and Drought Detection and Monitoring Plan.

***Appendix A: Standard Operating Procedures***

**Standard Operating Procedures for Wild Horse and Horse Gathers**

Gathers would be conducted by utilizing contractors from the Wild Horse Gathers-Western States Contract, or BLM personnel. The following procedures for gathering and handling wild horses would apply whether a contractor or BLM personnel conduct a gather. For helicopter gathers conducted by BLM personnel, gather operations will be conducted in conformance with the *Wild Horse Aviation Management Handbook* H-4740-1 (January 2009).

Prior to any gathering operation, the BLM will provide for a pre-capture evaluation of existing conditions in the gather area(s). The evaluation will include animal conditions, prevailing temperatures, drought conditions, soil conditions, road conditions, and a topographic map with wilderness boundaries, the location of fences, other physical barriers, and acceptable trap locations in relation to animal distribution. The evaluation will determine whether the proposed activities will necessitate the presence of a veterinarian during operations. If it is determined that a large number of animals may need to be euthanized or capture operations could be facilitated by a veterinarian, these services would be arranged before the capture would proceed. The contractor will be apprised of all conditions and will be given instructions regarding the capture and handling of animals to ensure their health and welfare is protected.

Gather corrals and temporary holding sites will be located to reduce the likelihood of injury and stress to the animals, and to minimize potential damage to the natural resources of the area. These sites would be located on or near existing roads.

The primary capture methods used in the performance of gather operations include:

1. Helicopter Assisted Trapping. This capture method involves utilizing a helicopter to direct wild horses into a temporary corral.
2. Helicopter Assisted Roping. This capture method involves utilizing a helicopter to herd wild horses or burros to ropers.

The following procedures and stipulations will be followed to ensure the welfare, safety, and humane treatment of wild horses in accordance with the provisions of 43 CFR 4700.

***A. Capture Methods used in the Performance of Gather Contract Operations***

1. The primary concern of the contractor is the safe and humane handling of all animals captured. All capture attempts shall incorporate the following:

All gather corral and holding facilities locations must be approved by the Contracting Officer's Representative (COR) and/or the Project Inspector (PI) prior to construction. The Contractor may also be required to change or move corral locations as determined by the COR/PI. All gather corrals and holding facilities not located on public land must have prior written approval of the landowner.

2. The rate of movement and distance the animals travel shall not exceed limitations set by the COR who will consider terrain, physical barriers, access limitations, weather, extreme

temperature ( high and low), condition of the animals, urgency of the operation (animals facing drought, starvation, fire rehabilitation, etc.) and other factors. In consultation with the contractor the distance the animals travel will account for the different factors listed above and concerns with each HMA.

3. All gather corrals, wings, and holding facilities shall be constructed, maintained and operated to handle the animals in a safe and humane manner and be in accordance with the following:
  - a. Gather corrals and holding facilities shall be constructed of portable panels, the top of which shall not be less than 72 inches high for horses and 60 inches for horses, and the bottom rail of which shall not be more than 12 inches from ground level. All gather corrals and holding facilities shall be oval or round in design.
  - b. All loading chute sides shall be a minimum of 6 feet high and shall be fully covered, plywood, metal without holes larger than 2"x4".
  - c. All runways shall be a minimum of 30 feet long and a minimum of 6 feet high for horses, and 5 feet high for horses, and shall be covered with plywood, burlap, plastic snow fence or like material a minimum of 1 foot to 5 feet above ground level for horses and 1 foot to 6 feet for burros. The location of the government furnished portable fly chute to restrain, age, or provide additional care for the animals shall be placed in the runway in a manner as instructed by or in concurrence with the COR/PI.
  - d. All crowding pens including the gates leading to the runways shall be covered with a material which prevents the animals from seeing out (plywood, burlap, plastic snow fence, etc.) and shall be covered a minimum of 1 foot to 5 feet above ground level for horses and 2 feet to 6 feet for burros.
  - e. All pens and runways used for the movement and handling of animals shall be connected with hinged self-locking or sliding gates.
4. No modification of existing fences will be made without authorization from the COR/PI. The Contractor shall be responsible for restoration of any fence modification which he has made.
5. When dust conditions occur within or adjacent to the trap or holding facility, the Contractor shall be required to wet down the ground with water.
6. Alternate pens, within the holding facility shall be furnished by the Contractor to separate mares or mares with small foals, sick and injured animals, estrays, or other animals the COR determines need to be housed in a separate pen from the other animals. Animals shall be sorted as to age, number, size, temperament, sex, and condition when in the holding facility so as to minimize, to the extent possible, injury due to fighting and trampling. Under normal conditions, the government will require that animals be restrained for the purpose of determining an animal's age, sex, or other necessary procedures. In these instances, a portable restraining chute may be necessary and will be provided by the government. Alternate pens shall be furnished by the Contractor to hold animals if the specific gathering requires that animals be released back into

the capture area(s). In areas requiring one or more satellite gather corrals, and where a centralized holding facility is utilized, the contractor may be required to provide additional holding pens to segregate animals transported from remote locations so they may be returned to their traditional ranges. Either segregation or temporary marking and later segregation will be at the discretion of the COR.

7. The Contractor shall provide animals held in the gather corrals and/or holding facilities with a continuous supply of fresh clean water at a minimum rate of 10 gallons per animal per day. Animals held for 10 hours or more in the gather corrals or holding facilities shall be provided good quality hay at the rate of not less than two pounds of hay per 100 pounds of estimated body weight per day. An animal that is held at a temporary holding facility through the night is defined as a horse/horse feed day. An animal that is held for only a portion of a day and is shipped or released does not constitute a feed day.
8. It is the responsibility of the Contractor to provide security to prevent loss, injury, or death of captured animals until delivery to final destination.
9. The Contractor shall restrain sick or injured animals if treatment is necessary. The COR/PI will determine if animals must be euthanized and provide for the destruction of such animals. The Contractor may be required to humanely euthanize animals in the field and to dispose of the carcasses as directed by the COR/PI.
10. Animals shall be transported to final their destination from temporary holding facilities within 24 hours after capture unless prior approval is granted by the COR/PI for unusual circumstances. Animals to be released back into the HMA following gather operations may be held up to 21 days or as directed by the COR/PI. Animals shall not be held in gather corrals and/or temporary holding facilities on days when there is no work being conducted except as specified by the COR/PI. The Contractor shall schedule shipments of animals to arrive at final destination between 7:00 a.m. and 4:00 p.m. No shipments shall be scheduled to arrive at final destination on Sunday and Federal holidays, unless prior approval has been obtained by the COR. Animals shall not be allowed to remain standing on trucks while not in transport for a combined period of greater than three (3) hours in any 24 hour period. Animals that are to be released back into the capture area may need to be transported back to the original gather site. This determination will be at the discretion of the COR.

***B. Capture Methods That May Be Used in the Performance of a Gather***

1. Capture attempts may be accomplished by utilizing bait (feed, water, mineral licks) to lure animals into a temporary gather corral. If the contractor selects this method the following applies:
  - a. Finger gates shall not be constructed of materials such as "T" posts, sharpened willows, etc., that may be injurious to animals.
  - b. All trigger and/or trip gate devices must be approved by the COR/PI prior to capture of animals.
  - c. Gather corrals shall be checked a minimum of once every 10 hours.

2. Capture attempts may be accomplished by utilizing a helicopter to drive animals into a temporary trap. If the contractor selects this method the following applies:
  - a. A minimum of two saddle-horses shall be immediately available at the trap site to accomplish roping if necessary. Roping shall be done as determined by the COR/PI. Under no circumstances shall animals be tied down for more than one half hour.
  - b. The contractor shall assure that foals shall not be left behind, and orphaned.
3. Capture attempts may be accomplished by utilizing a helicopter to drive animals to ropers. If the contractor with the approval of the COR/PI selects this method the following applies:
  - a. Under no circumstances shall animals be tied down for more than one half hour.
  - b. The contractor shall assure that foals shall not be left behind, or orphaned.
  - c. The rate of movement and distance the animals travel shall not exceed limitations set by the COR/PI who will consider terrain, physical barriers, weather, condition of the animals and other factors.

***C. Use of Motorized Equipment***

1. All motorized equipment employed in the transportation of captured animals shall be in compliance with appropriate State and Federal laws and regulations applicable to the humane transportation of animals. The Contractor shall provide the COR/PI with a current safety inspection (less than one year old) for all motorized equipment and tractor-trailers used to transport animals to final destination.
2. All motorized equipment, tractor-trailers, and stock trailers shall be in good repair, of adequate rated capacity, and operated so as to ensure that captured animals are transported without undue risk or injury.
3. Only tractor-trailers or stock trailers with a covered top shall be allowed for transporting animals from trap site(s) to temporary holding facilities, and from temporary holding facilities to final destination(s). Sides or stock racks of all trailers used for transporting animals shall be a minimum height of 6 feet 6 inches from the floor. Single deck tractor-trailers 40 feet or longer shall have two (2) partition gates providing three (3) compartments within the trailer to separate animals. Tractor-trailers less than 40 feet shall have at least one partition gate providing two (2) compartments within the trailer to separate the animals. Compartments in all tractor-trailers shall be of equal size plus or minus 10 percent. Each partition shall be a minimum of 6 feet high and shall have a minimum 5 foot wide swinging gate. The use of double deck tractor-trailers is unacceptable and shall not be allowed.
4. All tractor-trailers used to transport animals to final destination(s) shall be equipped with at least one (1) door at the rear end of the trailer, which is capable of sliding either horizontally or vertically. The rear door(s) of tractor-trailers and stock trailers must be capable of opening the

full width of the trailer. Panels facing the inside of all trailers must be free of sharp edges or holes that could cause injury to the animals. The material facing the inside of all trailers must be strong enough so that the animals cannot push their hooves through the side. Final approval of tractor-trailers and stock trailers used to transport animals shall be held by the COR/PI.

5. Floors of tractor-trailers, stock trailers and loading chutes shall be covered and maintained with wood shavings to prevent the animals from slipping.
6. Animals to be loaded and transported in any trailer shall be as directed by the COR/PI and may include limitations on numbers according to age, size, sex, temperament and animal condition. The following minimum square feet per animal shall be allowed in all trailers:

11 square feet per adult horse (1.4 linear foot in an 8 foot wide trailer);

8 square feet per adult horse (1.0 linear foot in an 8 foot wide trailer);

6 square feet per horse foal (.75 linear foot in an 8 foot wide trailer);

4 square feet per horse foal (.50 linear feet in an 8 foot wide trailer).

7. The COR/PI shall consider the condition and size of the animals, weather conditions, distance to be transported, or other factors when planning for the movement of captured animals. The COR/PI shall provide for any brand and/or inspection services required for the captured animals.
8. If the COR/PI determines that dust conditions are such that the animals could be endangered during transportation, the Contractor will be instructed to adjust speed.

***D. Safety and Communications***

1. The Contractor shall have the means to communicate with the COR/PI and all contractor personnel engaged in the capture of wild horses utilizing a VHF/FM Transceiver or VHF/FM portable Two-Way radio. If communications are ineffective the government will take steps necessary to protect the welfare of the animals.
  - a. The proper operation, service and maintenance of all contractor furnished property is the responsibility of the Contractor. The BLM reserves the right to remove from service any contractor personnel or contractor furnished equipment which, in the opinion of the contracting officer or COR/PI violate contract rules, are unsafe or otherwise unsatisfactory. In this event, the Contractor will be notified in writing to furnish replacement personnel or equipment within 48 hours of notification. All such replacements must be approved in advance of operation by the Contracting Officer or his/her representative.
  - b. The Contractor shall obtain the necessary FCC licenses for the radio system
  - c. All accidents occurring during the performance of any task order shall be immediately reported to the COR/PI.
2. Should the contractor choose to utilize a helicopter the following will apply:

- a. The Contractor must operate in compliance with Federal Aviation Regulations, Part 91. Pilots provided by the Contractor shall comply with the Contractor's Federal Aviation Certificates, applicable regulations of the State in which the gather is located.
- b. Fueling operations shall not take place within 1,000 feet of animals.

***E. Site Clearances***

Personnel working at gather sites will be advised of the illegality of collecting artifacts. Prior to setting up a trap or temporary holding facility, BLM will conduct all necessary clearances (archaeological, T&E, etc). All proposed site(s) must be inspected by a government archaeologist (or designee). Once archaeological clearance has been obtained, the trap or temporary holding facility may be set up. Said clearance shall be arranged for by the COR, PI, or other BLM employees.

Gather sites and temporary holding facilities would not be constructed on wetlands, riparian zones or weed infested areas.

***G. Public Participation***

Opportunities for public viewing (i.e. media, interested public) of gather operations would be made available to the extent possible; however, the primary considerations will be to protect the health, safety, and welfare of the animals being gathered and the personnel involved. The public must adhere to guidance from the on-site BLM representatives. It is BLM policy that the public will not be allowed to come into direct contact with wild horses or burros being held in BLM facilities. Only authorized BLM personnel or contractors may enter the corrals or directly handle the animals.

***H. Responsibility and Lines of Communication***

The Contracting Officer's Representatives (CORs) and the project inspectors (PIs) have the direct responsibility to ensure the Contractor's compliance with the contract stipulations. Wild Horse and Burro Specialists would serve as the primary COR. Alternate COR and PI(s) would be selected prior to the start of the gather. BMD TFO Managers will take an active role to ensure the appropriate lines of communication are established between the field, Field Office, State Office, National Program Office, and BLM Holding Facility offices. All employees involved in the gather operations will keep the best interests of the animals at the forefront at all times.

All publicity, formal public contact and inquiries will be handled through the Nevada State Office and Battle Mountain District Office Public Affairs Officer. These individuals will be the primary contact and will coordinate with the COR on any inquiries.

The COR will coordinate with the contractor and the BLM Corrals to ensure animals are being transported from the capture site in a safe and humane manner and are arriving in good condition.

The contract specifications require humane treatment and care of the animals during removal operations. These specifications are designed to minimize the risk of injury and death during and after capture of the animals. The specifications will be vigorously enforced.

Should the contractor show negligence and/or not perform according to contract stipulations, he will be issued written instructions, stop work orders, or defaulted.

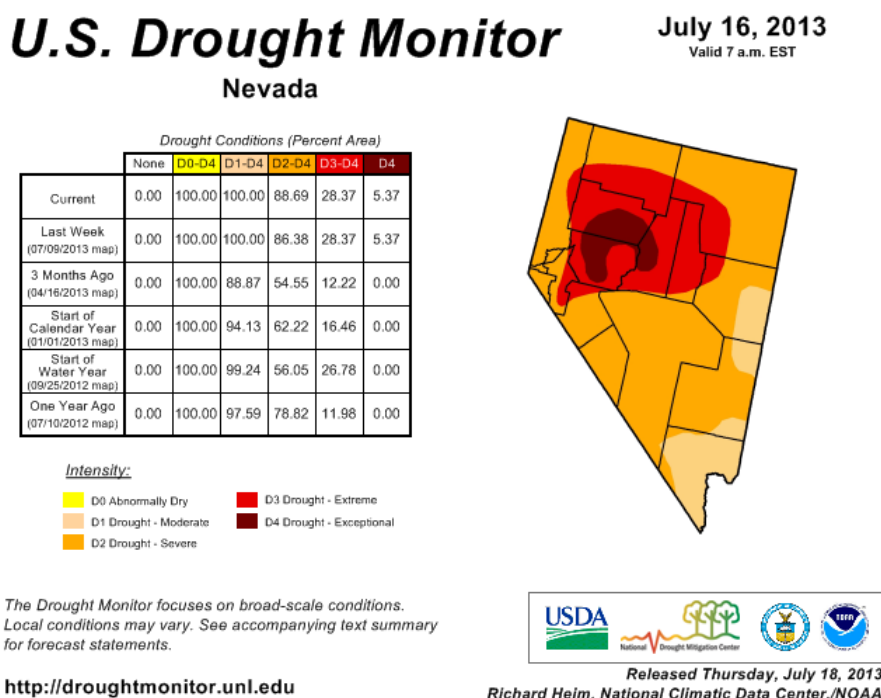
Appendix B: Monitoring Summary

Fish Lake Valley and Gold Mountain Herd Management Area's Monitoring Report  
Spring 2013

Renewable staff for the Tonopah Field Office (TFO) has been performing drought monitoring throughout the Fish Lake Valley and Gold Mountain Herd Management Areas (HMAs), and associated grazing allotments. Monitoring has been conducted to verify and document drought related resources concerns beginning in 2012. Monitoring has continued as the drought persists. Monitoring methodologies and focus is consistent with those described in the Battle Mountain District Drought Detection and Monitoring Plan and analyzed in the Battle Mountain District Drought Management EA (DOI-BLM-NV-B000-2012-0005-EA) dated June 14, 2012.

Vegetation within the HMAs is displaying various signs of drought stress. There is a significant lack of forage, and in some instances a lack of water, available for wildlife and wild horses. The vegetative growth during the 2013 growing season is considerably reduced, with limited to no growth observed within some areas of the HMAs. Much of the vegetation is exhibiting reduced leaf growth, and seed head development with induced senescence prevalent across the allotments. No livestock grazing has occurred within the allotments associated with Fish Lake Valley HMA or allotment pastures associated with Gold Mountain HMA. The lower elevations are exhibiting the most severe signs of drought stress, especially within the Fish Lake Valley HMA. Water in the Gold Mountain HMA is limited to a single lentic spring source resulting in limited distribution of wild horses and wildlife. Drought Indicators as identified in the Battle Mountain District Drought EA have been verified (**Figures 01, 02**)

**Figure 01.** The U.S. Drought Monitor Map - **Note current drought monitoring index.** Eighty six percent of Nevada is currently experiencing severe drought, and both aforementioned HMAs reside within a severely affected region of the state.



**Figure 02. Vegetation Drought Response Index (VegDRI)** - VegDRI is a bi-weekly depiction of vegetation stress across the contiguous United States. VegDRI is a fine resolution (1-km<sup>2</sup>) index based on remote sensing data, but unlike other satellite-based measurements, VegDRI also incorporates climate and biophysical data to determine the cause of vegetation stress. This integrated approach provides benefits over satellite-derived data alone. Multiple factors such as climate, pests, land use change, fire, and extreme weather events can influence vegetation conditions, so including climate and biophysical data help distinguish stress due to drought.

**Vegetation Drought Response Index**  
**Complete: Nevada, Quad 4**

July 15, 2013



Vegetation Condition

- Extreme Drought
- Severe Drought
- Moderate Drought
- Pre-Drought
- Near Normal
- Unusually Moist
- Very Moist
- Extremely Moist
- Out of Season
- Water

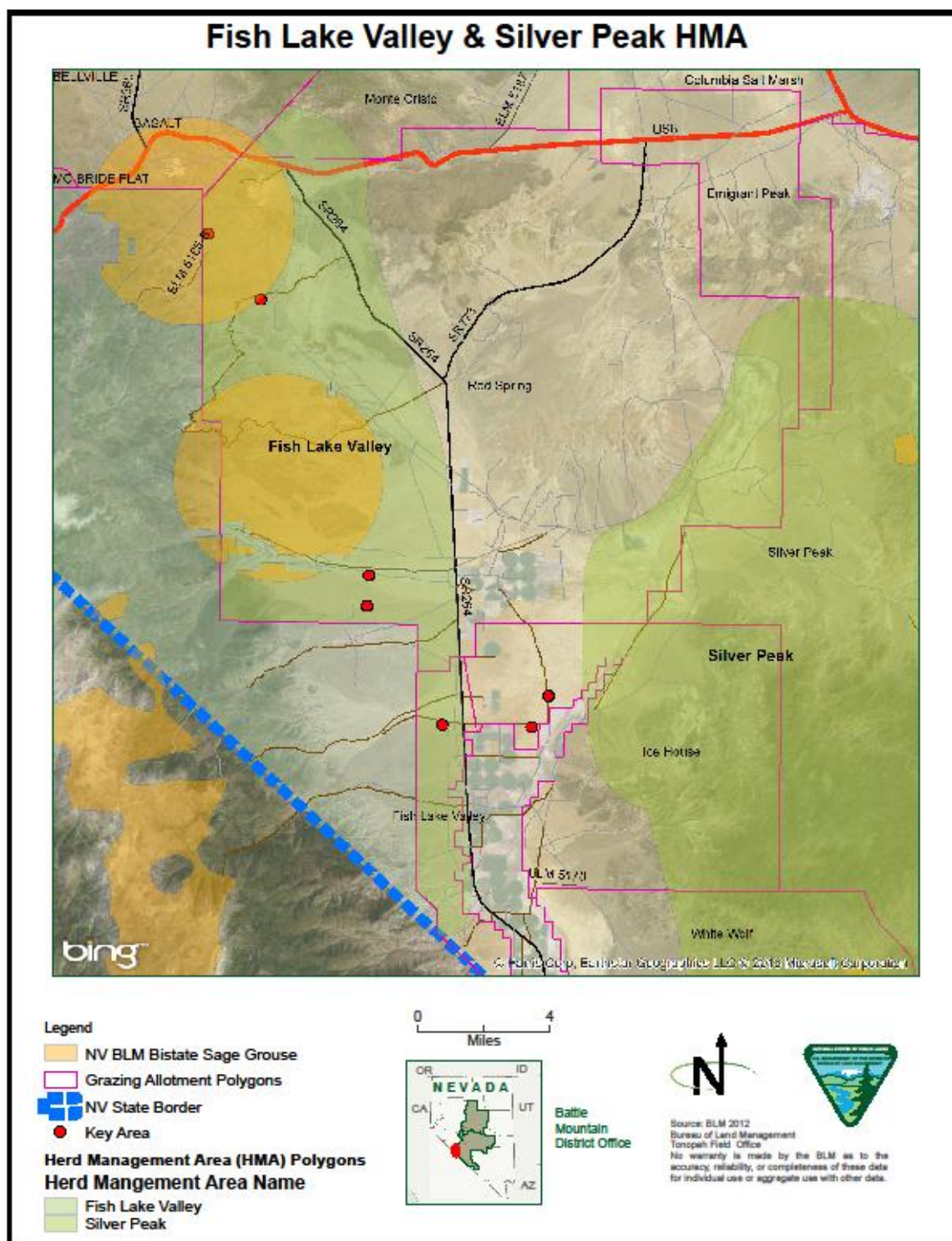


**Figure 03.** Vegetation Drought Response Index: Esmeralda County, NV.

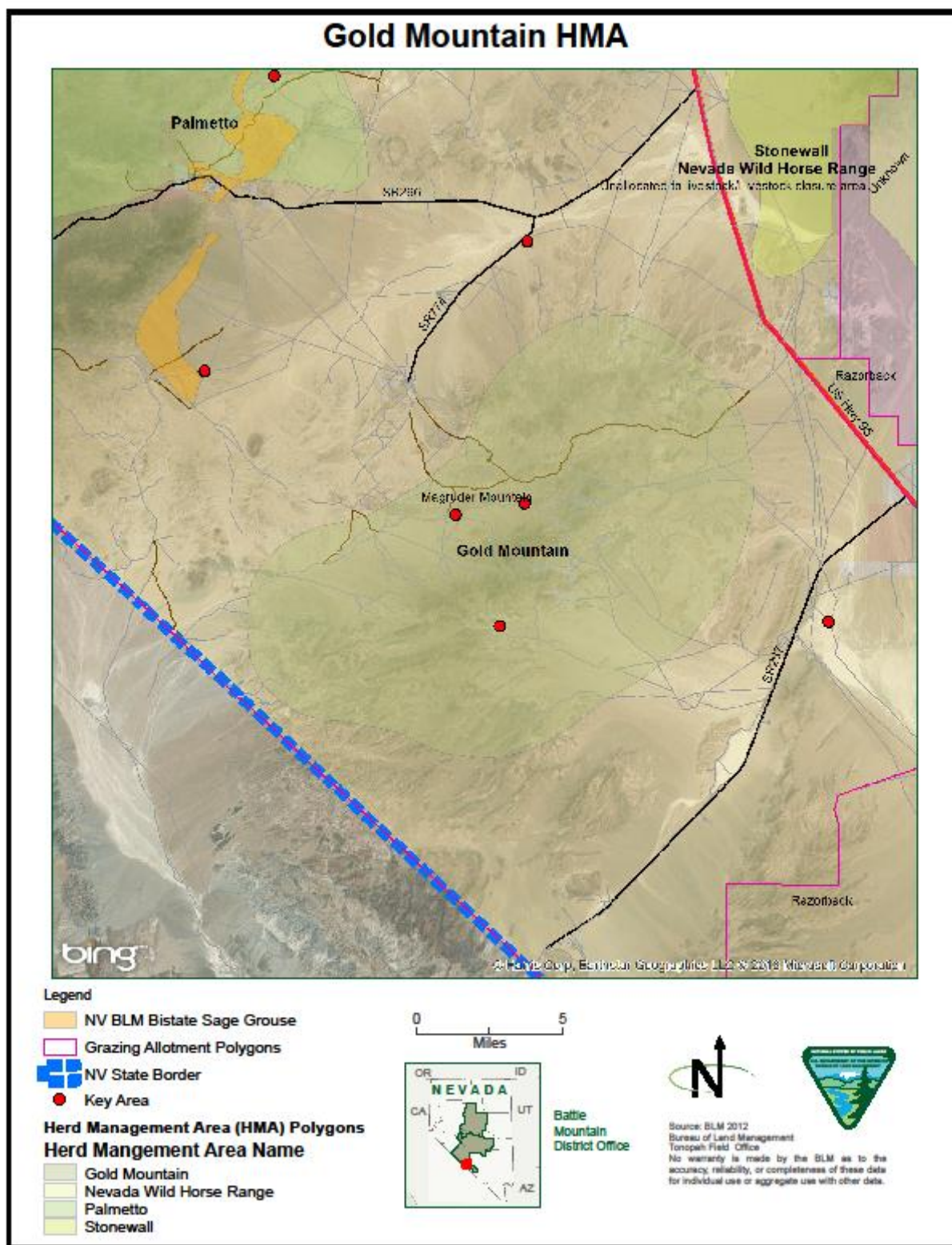
Note: Fish Lake Valley and Gold Mountain HMA's reside in Esmeralda County, NV. Based on the VegDRI assessment, this area is experiencing severe to extreme vegetation stress.



**Figure 04.** The following map displays the HMA and allotment boundaries, the locations of the Key Management Areas for upland monitoring, and a 2-mile buffer around known Bi-State Sage-grouse leks, a BLM sensitive species, and candidate for listing under the Threatened and Endangered Species Act.



**Figure 05.** The following map displays the HMA and allotment boundaries, the locations of the Key Management Areas for upland monitoring.



## **Fish Lake Valley HMA**

Limited forage, critical Bi-State Sage-grouse habitat, public safety and drought are issues affecting the management of Fish Lake Valley HMA (FLV). The estimated wild horse population within FLV is 229, with an AML set at 54. FLV is located in the rain shadow of the White Mountains, and in the transition zone between sagebrush steppe and salt desert shrub plant communities.

Vegetation utilization and wild horse concentration Drought Response Triggers as described in the Battle Mountain District (BMD) Drought Detection and Monitoring Plan (DDMP) have been met within the FLV HMA.

Bud sage (*Picrothamnus desertorum*), ephedra (*Ephedra spp.*), and spiny menodora (*Menodora spinescens*) are showing signs of drought induced senescence and occasional plant death (**Figure 10**). Grass growth is extremely limited within FLV HMA. Little to no shoot/leaf growth or seed head development and some induced senescence has occurred. Key grass species, based on ecological site descriptions, are non-existent in most areas due to over utilization and extended drought. When found, their existence is limited to canopy of shrub species, and exhibit signs of drought stress (see **Drought Monitoring Summary** forms). Additionally, horses have resorted to shrub use, specifically spiny menodora and observational utilization on this species appears to be very high. Areas lower in elevation have been denuded of nearly all vegetation (see **Figure 09**).

For the most part, access to water is not a limiting factor within the FLV HMA. Spring sources and associated creeks are numerous in the southern portion of the HMA, but signs of overuse, primarily bank erosion due to reduced riparian vegetation growth, are observed semi-regularly (see **Drought Monitoring Summary** forms). Water in the northern portion of the HMA is limited to two large holding ponds for the Grefco Mine. Horses from the northern portion of the HMA, and horses from outside the HMA are concentrating near the two ponds and accelerated vegetation utilization is occurring in this area (Drought Response Trigger).

US Hwy 6 runs east to west on the northern edge of FLV, and SR 264 runs north to south within Fish Lake Valley, paralleling FLV HMA boundary to the east. These two roadways are where vehicular accidents involving wild horses occur monthly (see **Figure 06, 07**). To the north of US Hwy 6, wild horses regularly travel north to south across the highway into FLV HMA to access water. Additionally, wild horses regularly cross SR 264 east to west throughout Fish Lake Valley, and into the Volcanic Hills, bordering the northeastern portion of the HMA. Neither highway has roadside fencing (see **Figure 07**).

Occupied Bi-State Sage-grouse (BLM Sensitive Species, and Endangered Species Act Candidate Species) habitat exists within FLV HMA, with two known active leks (see **Figure 04**). The lack of grasses are a concern for the nesting success of sage-grouse, as Sveum et al. (1998) observed higher nesting success for nests placed in sagebrush steppe habitat with grasses taller than 18 cm (7.1 in), as the taller grasses resulted in decreased nest predation. Also, an abundance of forbs (greater or equal to 15%) and insects characterize ideal early brood-rearing habitat (Connelly et al. 2000). Action is recommended to prevent further impacts to critical wildlife habitat. The Nevada Department of Wildlife has been, and continues to be, consulted on the status of FLV HMA.

No livestock grazing is occurring within the portions of the allotments associated with FLV HMA. Permittees have elected voluntary non-use of the portions of Red Springs and Fish Lake Valley allotments within the Fish Lake Valley HMA. (see **Figure 04**).

Currently, Henneke Body Condition Scores (BCS) average 2.5-3, but allowing these horses to potentially go into winter with reduced BCS, will result in an elevated mortality rate.

#### **Literature Cited:**

Connelly, J. W., M. A. Schroeder, A. R. Sands, and C. E. Braun. 2000. Guidelines to manage sage grouse populations and their habitats. *Wildlife Society Bulletin* 28:967-985.

Sveum, C.M., J.A. Crawford, and W.D. Edge. 1998. Nesting Habitat Selection by Sage Grouse in South-Central Washington. *Journal of Range Management* 51:265-269.

**Figure 06.** Photo taken July 2, 2013 during Nevada State Office/National Program Office drought monitoring tour. In order for wild horses at the north end of FLV HMA to access water and find nutritional feed, they must trail long distances and routinely cross highways.



**Figure 07.** Photo taken July 2, 2013 on SR264 at northeastern portion of the HMA. Notice poor body condition of horses near roadway, with no roadside fencing.



**Figure 08.** Photo taken June 11, 2013 at the Grefco Mine pond in the northwestern portion of the HMA. Notice the amount horse trailing occurring. Additionally, the horses pictured are headed from water within FLV HMA to cross US Hwy 6, to access better forage outside the HMA.



**Figure 09.** Photo taken June 11, 2013 approximately 1 mile southeast of Sand Spring. Notice vegetation denutition, with trailing horses present in the background.



**Figure 10.** Photo taken June 11, 2013 at Red Springs Key Area 02, within Fish Lake Valley HMA. Notice the lack of this year's growth, lack of grass species and the induced senescence of shrub species. This is common throughout the HMA.



## **Gold Mountain HMA**

Limited forage, water, overall poor habitat and drought are issues affecting the management of Gold Mountain HMA. The estimated wild horse population within the Gold Mountain HMA is 33, (and one mule) with an AML set at 0 wild horses and 78 burros. The HMA lies within the transition zone between Great Basin and Mojave Desert plant communities, and primarily consists of salt desert shrub.

Vegetation utilization, water availability and wild horse concentration Drought Response Triggers as described in the BMD DDMP have been met within the Gold Mountain HMA.

Using the key species method, utilization on grass was measured at 40% (Drought Response Trigger), and were typically located within canopy of shrub species (see **Figure 14**). All vegetation classes are drought stressed. Forbs have had little to no growth during the current growing season as well as the 2012 growing season, and shrub/grass species exhibit little to no shoot/leaf growth, reproduction, and occasional induced senescence occurring (see **Drought Monitoring Summary** forms). Wild horse use of shrubs, specifically spiny menodora (*Menodora spinescens*) is heavy, and observed regularly. Additionally, rain gauge data is collected TFO staff. Measurements are taken quarterly, and data indicates below average precipitation levels over 2012 and have continued into 2013.

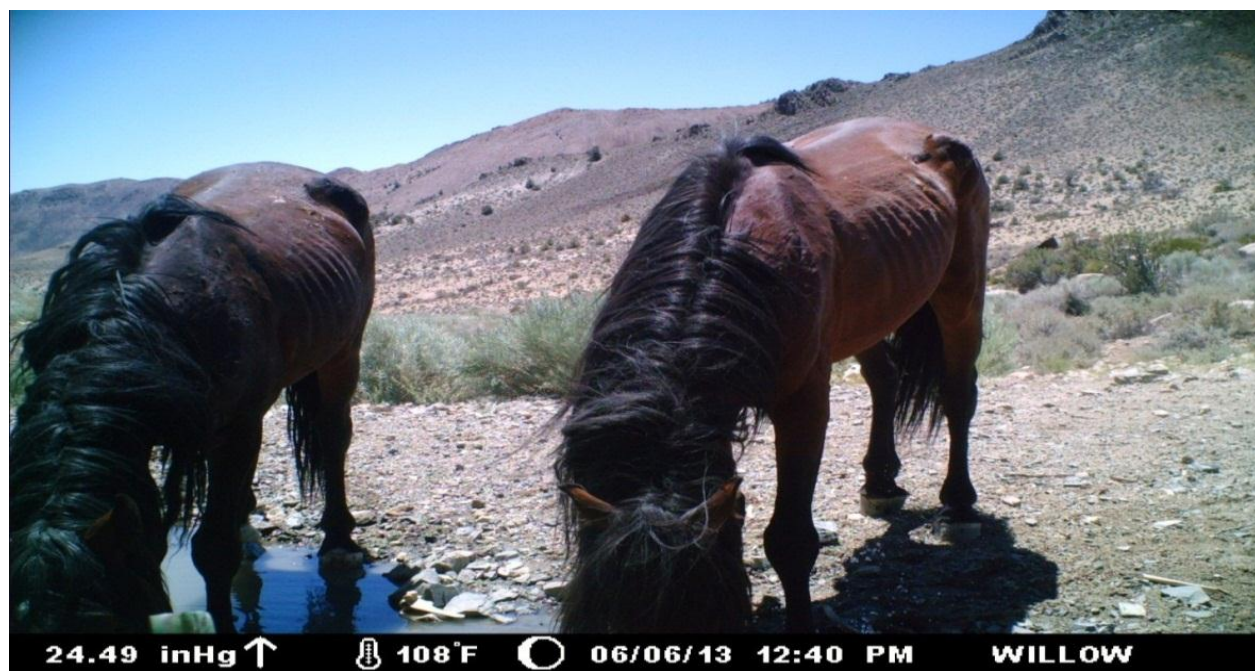
One perennial water source (Willow Spring) exists within the HMA, resulting in wildlife and wild horse concentration, trailing, and excessive travel distances to find adequate forage. In previous years Willow Spring has completely dried, and nearly dries most years (see **Figure 13**). The lack of a dependable water source to provide for wildlife and wild horse management and distribution is a Drought Response Trigger. Wildlife such as rodents, mule deer, coyotes, bobcats, mountain lions and various migratory birds rely on Willow Spring and surrounding habitat.

No livestock grazing is occurring within the portion of the Magruder Mountain allotment where horses exist within Gold Mountain HMA (southern pasture; see **Figure 05**). The southernmost pasture is a forage reserve, which requires above average precipitation years, and the approval of the authorized officer to permit grazing.

Average body condition of wild horses within the HMA is BCS of high 2's, but allowing these horses to potentially go into winter with reduced BCS will result in an elevated mortality rate. (see **Figure 11, 12**).

Gold Mountain Game Camera Photos (photos date stamped and taken at Willow Spring):

**Figure 11.** Average BCS for horses within Gold Mountain HMA.



**Figure 12.** Above average BCS.



**Figure 13.** Photo taken July 10, 2013 at Willow Spring. Notice BLM game camera in the photo above the left side of the spring box. Surface water level at spring consistently drops over the course of the summer. Already the spring level looks too low to last the duration of the summer with 30+ head of wild horses using it.



**Figure 14.** Photo taken July 10, 2013 at Magruder Key Area 07, within Gold Mountain HMA. Notice the lack of this year's growth, and the level of utilization. This level of utilization on already drought stressed key species is common in areas horses can access within the HMA.



**Figure 15.** A photo showing the root growth of bunchgrass plants that were kept clipped at certain levels simulating heavy, moderate, light and no utilization. This represents the impacts of overgrazing on plant health. These impacts are known to accelerate when overuse occurs during drought.



***Appendix C: Federal Aviation Administration General Operating and Flight Rules Sec. 91.119***

**Part 91 GENERAL OPERATING AND FLIGHT RULES**  
**Subpart B--Flight Rules General**

**Sec. 91.119**

Minimum safe altitudes: General.

Except when necessary for takeoff or landing, no person may operate an aircraft below the following altitudes:

(a) Anywhere. An altitude allowing, if a power unit fails, an emergency landing without undue hazard to persons or property on the surface.

(b) Over congested areas. Over any congested area of a city, town, or settlement, or over any open air assembly of persons, an altitude of 1,000 feet above the highest obstacle within a horizontal radius of 2,000 feet of the aircraft.

(c) Over other than congested areas. An altitude of 500 feet above the surface, except over open water or sparsely populated areas. In those cases, the aircraft may not be operated closer than 500 feet to any person, vessel, vehicle, or structure.

[ (d) Helicopters, powered parachutes, and weight-shift-control aircraft. If the operation is conducted without hazard to persons or property on the surface—

(1) A helicopter may be operated at less than the minimums prescribed in paragraph (b) or (c) of this section, provided each person operating the helicopter complies with any routes or altitudes specifically prescribed for helicopters by the FAA; and

(2) A powered parachute or weight-shift-control aircraft may be operated at less than the minimums prescribed in paragraph (c) of this section.]

Amdt. 91-311, Eff. 4/2/10